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# File No.

DEPARTMENT

BRANCH

Subject :—

Std. Sectt. Slip 24 B e.

C O N T E N T S

Legal Department File No. Civil P.L. II/42

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| | | Rules & Notifications under the Civil Procedure Code, 1908 | |
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| 3. | O.No. 7823 26-9-42 | Sec. 70 -- Rule 2 As Extra aval Karkunas are not gazetted subordinates of the collector, amendment of Rule 2 is necessary | |
| 4. | O.N. 8407 20-10-42 | Sec. 70-(1) Notification under -- | |

Mr/2/5

11/5

K.S.R.

11/5

To achieve the object in view, rule 17 of the Rules made under section 70(1) of the Civil Procedure Code may be amended as shown in the accompanying draft notification. It is presumed that the intention is to bar appeals against all orders by the Collector in execution of Civil Court decrees and not merely the orders passed by him in appeals against the orders of his subordinate officers under the existing rule 17.

Sd/- ~~P.N.M.~~ P.N.M
11/3/

Remembrancer of ~~Legal~~ Affairs.

U.R. to H.D., No 2231 dated the 12th March 1942

Mr/255

Draft Notification

No. .- In exercise of the powers conferred by sub-section (1) of section 70 of the Code of Civil Procedure, 1908 (v of 1908), the Government of Bombay is pleased to amend the rules regulating the execution of decree transferred to the Collector for execution under the provisions of section 68 of the said Code and published in Government Notification, Judicial Department, No. 1209, dated the 6th February 1920, as follows:-

(1) Rule 17 of the said rules shall be renumbered as sub-rule (1) of that rule and in the said sub-rule (1) so renumbered after the word "passed" where it occurs for the second time, the words "by an officer subordinate to the Collector" shall be inserted;

(2) To rule 17, the following new sub-rule shall be added, namely:-

(2) No appeal shall lie against any order, including an order in an appeal made under sub-rule (1), passed by the Collector under the provisions of the Third Schedule to the said Code or of these rules."

By order of the Governor of Bombay

Secretary to Government.

Mr/2/5

NOTIFICATION

Home Department

Bombay Castle, 1942

The Code of Civil Procedure, 1908

No. .- In pursuance of caluse (b) of rule 26 of Order V of the First Schedule to the Code of Civil Procedure, 1908(v of 1908), and in supersession of the notification of the Government of India in the late Foreign and Political Dept. No. 323-I dated the 15th May 1929, and of all notifications amending the same, in so far as they relate to the Province of Bombay, the Government of Bombay, is pleased to declare that service by any Civil Court specified in the schedule annexed to the Government Notification in the Home Department No.

dated 1942 of

Here insert the No. and date of the Notification issued under the proviso to section 29 of the Code.

any summons issued under the said Code by a Court of the Province of Bombay shall be deemed to be valid service.

By order of the Governor of Bombay

Secretary to Government.

Mr/2/5

Office of the R.L.A.

The draft notifications on pages 93-95 ante, as slightly amended in pencil, are in order.

2. A revised draft notification in place of the draft notification on page 97 ante is sent herewith. Government of India notification in the late Foreign and Political Department No 323-I dated the 15th May 1929 was issued under section 29 and clause (b) in rule 26 of Order V in the First Schedule of the Civil Procedure Code. Consequently, the said Government of India notification of 1929 in so far as it falls under ~~clause~~ clause (b) rule 26 of Order V of the First Schedule to the Civil Procedure Code, 1908 will have to be specifically superseded. The revised draft notification provides accordingly

Sd/-
N.K.B 3/8
for Remembrancer of Legal Affairs.

U.R. to H.D., No 6319, dated the 4th August 1942

Mr/2p5

The proposed amendment of rule 2 of the rules regulating the execution of decrees would enable the Collector to transfer decrees for execution to extra Aval Karkuns bu the provisions of section 70 of the Civil Procedure Code under which the said rules are made, particularly caluses (b) and (c) of sub-sectionn(1) con-template that the officer to whom the Collector may transfer the decrees for execution should be a gazetted subordinate of the Collector. See also rule 15 of the rules (p.92 of the High Court Civil Mannual). The extra Aval Karkuns are not gazetted subordinates of the Collector and consequently the proposed amendment of rule 2 does not appear to be legally feasible.

Sd/-
P.N. Moos
25/9/

Remembrancer of Legal Affairs.

U.R. to H.D., No 7523, dated the 26th September 1942.

krp2p5

A revised draft notification sent herewith

2. The H.D. draft does not provide for an appeal to the Collector if an oridingal order under para 10 (a) of the Third Schudule to t e ode is made by an Assistant or Deputy Collector. To make the rule comprehensive necessary provision has been made in the revised draft.

3. It is presumed that the intention is that no second appeal is to lie to the Collector against the order passed by the Assistant or Deputy Collector in appeal under sub-rule (1) of rule 17

Sd/- P.N.Moos 20/10

Remembrancer of Legal Affairs.

U.R. to H.D., No 8487, dat d the 20th October 1042

Mr/2/5/

NOTIFICATION

Home Department

Bombay Castle, 1942

No. 5782/4 .- In exercise of the powers conferred by sub-section (1) of section 70 of the Code of Civil Procedure, 1908 (V of 1908), the Government of Bombay is pleased to amend the rules ~~regarding~~ regulating the execution of decrees transferred to the Collector for execution under the provision of section 68 of the said Code and published in Government Notification, Judicial Department, No. 1209 dated the 6th February 1920, as follows:-

For sub-rule (1) of rule (17) of the said rules, the following shall be substituted, namely:-

"(1) An appeal shall lie to the Collector against any order passed under paragraphs 7,8 and 10(c) of the Third Schedule to the said Code and rules 11,13,and 15 of these rules by an officer subordinate to the Collector; and to the Assistant Deputy Collector, or the Collector; ~~and~~ ~~text~~ against any order passed under paragraph 10(a) of the Third Schedul to the said Code by an officer subordinate to the Assistant Deputy Collector or by the Assistant Deputy Collector respectively; subject to the provision in this sub-rule, no appeal shall lie against any order, including an order in an appeal made under this sub-rule, passed by an officer subordinate to the Collector under the provisions of the Third Schedule to the said Code or of these rules".

By order of the Governor of Bombay

Secretary to Government.

Mr/2/5